

EXHIBIT B

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1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS
3
4 - - - - -x
5 UNITED STATES OF AMERICA)
6 ex rel. DAVID FRANKLIN,)
7 Plaintiff,) Civil Action
8 v.) No. 96-11651-PBS
9 PARKE-DAVIS, DIVISION OF)
10 WARNER-LAMBERT COMPANY,)
11 Defendant.)
12 - - - - -x
13 VOLUME I Pages 1 - 347
14
15
16 DEPOSITION of DAVID PETER FRANKLIN,
17 Ph.D., a witness called by counsel for the
18 Defendant, taken under the provisions of the
19 Federal Rules of Civil Procedure before Jane M.
20 Borrowman, Registered Professional Reporter and
21 Notary Public, at the offices of Hare & Chaffin,
22 160 Federal Street, Boston, Massachusetts, taken on
23 Tuesday, September 12, 2000, commencing at 9:11
24 a.m., pursuant to Notice.

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1 it was a flat salary.
2 Q. Was it a flat salary or were there additional
3 types of compensation?
4 A. No. I just got a flat salary.
5 Q. Okay. You say he congratulated you. Why did
6 he congratulate you?
7 A. Because, essentially, Mike Valentino decided
8 to offer me the job.
9 Q. So, you were offered the position at the end
10 of the day?
11 A. Yes.
12 Q. Did you accept?
13 A. I think I said I needed a couple of days. I
14 accepted, I think, the next -- or a couple of
15 days later.
16 Q. Going to page 8 of Exhibit 3, the second full
17 paragraph says: "Dr. Franklin's first
18 indication that there was illegality of
19 Parke-Davis' marketing was, in retrospect,
20 during his interviews."
21 So, is it your testimony that you
22 didn't think that during the course of the
23 interview that you were being asked to do
24 anything improper?

- 1 A. During the interviews, I thought it was -- for
2 example, this peer-to-peer interaction was
3 legitimate, and I believed that to be the
4 case.
- 5 Q. What caused you to later believe that, in
6 retrospect, there was illegality in
7 Parke-Davis' marketing, as evidenced by the
8 initial interviews that you had?
- 9 A. I, later, learned that that peer-to-peer
10 interview -- or discussion needed to be
11 initiated by the physician, and it was not
12 initiated by the physician.
- 13 Q. Okay. Anything else about the earlier
14 interviews that now, in retrospect, indicated
15 to you that there was something illegal going
16 on, in your words?
- 17 A. Yeah. Bend the rules was, actually, break the
18 rules.
- 19 Q. Okay. And why did you -- what made you
20 believe that it was, actually, break the
21 rules?
- 22 A. Because the FDA requirement is that it be
23 physician initiated.
- 24 Q. Okay.

- 1 A. And that I learned that, later on, that it
2 needed to be physician initiated and it
3 wasn't. In practice, it was not physician
4 initiated.
- 5 Q. Anything else?
- 6 A. Meaning?
- 7 Q. Well, you say that the "first indication that
8 there was illegality in Parke-Davis' marketing
9 was, in retrospect, during his interviews."
10 What do you mean by that?
- 11 A. That the fact that they were looking for
12 people who would be comfortable working in a
13 gray area, bending the rules. They were,
14 essentially, feeling out my -- how
15 conservative I was and how -- whether or not I
16 would have been comfortable working where one
17 interpretation of the law would be that I was
18 breaking it. And, so, clearly, from my point
19 of view, they knew that they were pushing the
20 limits, at the very least, when they talked to
21 me.
- 22 Q. You're saying, in retrospect, you believe that
23 what they were doing was what?
- 24 A. Was going as close to -- pushing me as far as

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1 they could, as close to possible, to ask if I
2 was willing to do something that was illegal
3 without actually saying "this is illegal."
4 Q. And you believe that they concluded that you
5 would be?
6 A. That my eagerness to take the job and that my
7 stating that I would be comfortable working in
8 a gray zone seemed to be compatible with the
9 fact that there would be a lot of conflict
10 with the law in this job.
11 MR. GREENE: Jim, I don't want to
12 break your train of thought, but when do you
13 want to break for lunch?
14 MR. ROUHANDEH: Let me see --
15 probably, in about a half hour or so.
16 MR. GREENE: Okay. Mind if I go to
17 the men's room?
18 MR. ROUHANDEH: Off the record.
19 (Brief pause.)
20 BY MR. ROUHANDEH:
21 Q. Turning back to page 4 of Exhibit 3, at the
22 end of that paragraph on page 4, it states
23 that while you were in New Jersey, that you
24 were offered the position of medical liaison,